

### REMARKS/ARGUMENTS

Applicants appreciate the Examiner's thoughtful comments in the July 26, 2006 Office Action ("Office Action"). With this Amendment, Applicants hope to place the claims in condition for allowance. Specifically, Applicants have made several amendments to independent claim 1. First, Applicants have amended the preamble of claim 1 to recite "diagnosing bipolar disorder or major depressive disorder in a subject." Per the Examiner's suggestion, Applicants have also amended claim 1 to remove the phrase "or is predisposed for." Support for these claim amendments is found in the claims as originally filed and in the specification at, e.g., paragraphs 63-65, 66, 89, 165, 202 and 216.

Applicants have also amended claim 1 to address the Examiner's rejection argument under 35 U.S.C. § 112, second paragraph. *See* Office Action at page 5. The Examiner stated that "typically, a polynucleotide is not 'encoded' by a nucleic acid per se." *Id.* Applicants respectively submit that messenger RNA molecules are typically referred to as encoded by genes by those skilled in the art. *See, e.g.,* U.S. Patent No. 6,841,367 at column 3, line 65.<sup>2</sup> In this regard, Applicants have amended claim 1 to more clearly refer to the *messenger RNA* encoded by the *TBR1 gene* (represented by SEQ ID NO:3), which is detected according to the claimed method. Support for this amendment may be found in the specification at, e.g., paragraphs 18 and 208. To avoid a lack of antecedent basis, the phrase "sample" has also been replaced by the phrase "messenger RNA" in step (iii) of claim 1.

Applicants have also amended claim 52 to change the dependency to claim 1 instead of canceled claim 8, and added claim 53 which is limited to diagnosing major depressive disorder. Both of these claims (*i.e.*, amended claim 52 and new claim 53) are limited to the diagnosis of each of the specific mental disorders recited in claim 1 and, by virtue of their dependency on claim 1, incorporate all of the limitations of claim 1. Thus, no new matter is added.

Finally, Applicants have canceled claims 8-11.


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<sup>2</sup> The relevant passage reads as follows: "Any such polynucleotide includes but is not necessarily limited to nucleotide substitutions, deletions, additions, amino-terminal truncations and carboxy-terminal truncations such that these mutations *encode mRNA* ..." A copy of the relevant page of the '367 patent is attached as an Exhibit.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



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